IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

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ORDER

S.B. CIVIL WRIT PETITION NO.5130/2003- KRISHNA KUMAR VS. THE CHIEF MANAGER UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

DATE OF ORDER :: 15th December, 2006

PRESENT

HON'BLE JUSTICE SHRI MOHAMMAD RAFIQ

Mr.P.S. Bhati, Advocate, for the petitioner.
Mrs. Suman Porwal, Advocate for the respondent.

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BY THE COURT:

The petitioner in this writ petition has challenged the award dated 27.10.2001 passed by the Industrial Tribunal-cum-Labour Court, Sri Ganganagar (for short the labour court) and the order dated 11.1.1998 passed by the appellate authority partly accepting his appeal thereby converting the order of penalty of removal into that of stoppage of three annual grade increments and forfeiture of salary for the period

of suspension and from termination till reinstatement.

The petitioner at the relevant time was serving with the respondent on the post of conductor. He was on duty with bus no.7292 from Abohar to Hanumangarh as a conductor. On 14.3.1987 the vehicle was inspected by Transport Inspector Shri Surendra Kapoor, Asstt. Transport Officer Shri Abaya Ram at Hanumangarh Junction. At the time of checking 19 passengers were found without ticket. When the Inspector wanted to issue tickets to the passengers, the petitioner snatched the log sheet and way bill. On account of this reason, the inspector could not make any remarks in the log sheet. The petitioner mis-behaved with the vigilance party and tried to insist the passengers against vigilance party. A charge-sheet was issued to the petitioner on 19.10.1987. On the aforesaid charge, the petitioner submitted his reply to the charge-sheet. Inquiry was then conducted by the inquiry officer who fund his charges partly proved. The Divisional Manager dismissed the petitioner from service by order dated 16.11.1987. Aggrieved thereby, the petitioner preferred an

appeal on 25.11.1987, which was also rejected by the appellate authority on 11.1.1988. The petitioner approached appropriate Government which vide its notification dated 27.3.1999 referred the dispute to the labour court on the question whether the reversion of the petitioner and withholding of his three grade increments without cumulative effective and further whether non-payment of part of salary during suspension period was legal and justified.

The learned labour court after hearing the arguments of the parties, answered the reference in the terms that action of the Chief Manager, RSRTC, Hanumangarh in stopping three grade increments of the workman as also non-making of payment of the entire salary for the suspension period was legal and valid, hence, this writ petition.

I have heard learned counsel for the petitioner as well as learned counsel for the respondent and perused the record.

Shri P.S. Bhati, learned counsel for the petitioner argued

that the appellate authority having himself found that the charges against the petitioner were not proved was not justified in awarding the punishment of withholding of three grade increments without cumulative effect and forfeiture of salary and other benefits for the period of suspension. The learned labour court also committed an error in not correctly appreciating the law on the subject. The evidence and the statement of the witnesses Shaib Ram, Pat Ram, Subash Patrakar, Mahipal Sharma and Moda Ram was completely ignored who stated on that inspectors were in drunken state and quarreled with the conductor and no passenger was found without ticket. It is therefore argued that it was a case of no evidence in which no penalty could be imposed upon the petitioner.

On the other hand Smt. Suman Porwal, learned counsel for the respondents argued that the conduct of the petitioner was such as to make him dis-entitle to any relief whatsoever. The appellate authority has already taken a lenient view in his matter inasmuch as even he was found to carry 19 passengers

without ticket in the bus, he has been awarded lesser penalty. The learned labour court having appreciated the entire evidence on record and hence there is no illegality in the award passed by the learned labour court. She therefore prayed that the writ petition may be dismissed.

I have given my thoughtful consideration to the arguments advanced by learned counsel for the parties and perused the record.

It should be noted at the out set that the respondents themselves on the appeal of the petitioner reduced the rigour of the penalty while originally, the respondents awarded penalty of removal to the petitioner vide order dated 16.11.1987. In the appellate order they imposed upon him the penalty of only stoppage of three grade increments without cumulative effect and withholding of difference of salary and other allowances except subsistence allowance for the period of absence. The learned labour court after entire analysis of the facts of the case has found that the inquiry against the

petitioner was conducted strictly in accordance with principles of natural justice inasmuch as no proof or fact was brought on record of the court that there was any failure of the principles of natural justice inasmuch as the penalty of stoppage of three grade increments without without cumulative effect cannot be said to be disproportionate given the gravity of charge against the petitioner. The relationship of the conductor with the corporation was that of mutual faith and trust and fiduciary in nature. If the petitioner was found to carry 19 passengers without ticket then it is a clear gross misconduct.

I therefore do not find any error in the award passed by the learned labour court. The writ petition is therefore dismissed.

There shall be no order as to costs.

(MOHAMMAD RAFIQ),J.

c.p.goyal/-